

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Amargosa Vole**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to determine Endangered status and Critical Habitat for the Amargosa vole, a small mammal. This vole has been eliminated from portions of its range as a result of human encroachment and the burning and overgrazing of its habitat. It became so rare that it was once thought extinct, and is now known only from bulrush marshes near Tecopa and Tecopa Hot Springs in southeastern Inyo County, California. This proposal, if made final, would implement the protection provided by the Endangered Species Act of 1973, as amended, for the Amargosa vole. The Service seeks relevant data and comments from the public.

**DATES:** Comments from the public and the State of California must be received by October 28, 1983.

Public hearing requests must be received by October 13, 1983.

**ADDRESSES:** Interested persons or organizations are requested to submit comments to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment during normal business hours, in the Service's Endangered Species Office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sanford R. Wilbur at the above address (503/231-6131 or FTS 429-6131).

**SUPPLEMENTARY INFORMATION****Background**

The Amargosa vole (*Microtus californicus scirpensis*) was first

described in 1900 from specimens collected at a spring near Shoshone on the Amargosa River, southeastern Inyo County, California (Bailey 1900). Subsequently, the Amargosa vole was extirpated from the Shoshone area (Bleich 1980, Kellog 1918), and it was once thought to be extinct throughout its limited range. However, remnant populations of the subspecies were recently discovered in marshes along the Amargosa River near Tecopa and Tecopa Hot Springs (Bleich 1980, Gould and Bleich 1977). The knowledge that the Amargosa vole was not extinct was brought to the attention of resource agencies in 1979 (Bleich 1979), and the following year the U.S. Fish and Wildlife Service was petitioned to list the vole as Endangered. A notice of acceptance of petition and status review was published in the *Federal Register* of June 18, 1980 (45 FR 41172-41173). Based on the best scientific and commercial data available after the status review, the Service finds that the petitioned action is warranted and hereby publishes this proposed rule to implement the action in accordance with Section 4(b)(3)(B)(ii) of the Act.

The historic range of the Amargosa vole is probably the most restricted of any of the 17 currently recognized subspecies of *Microtus californicus* (Hall 1981). The Amargosa vole is known only from marshes located adjacent to the Amargosa River in southeastern Inyo and northeastern San Bernardino Counties, California. Marshes inhabited by the vole characteristically show a dominance of bulrush (*Scirpus olneyi*) and have some open water nearby (Bleich 1980). The occurrence of bulrush marshes is naturally restricted in this arid region to the vicinity of springs or portions of the Amargosa River with permanent flow. The Amargosa River is dry throughout most of its course.

The primary reasons for the extirpation of the Amargosa vole near Shoshone and its reduction near Tecopa and Tecopa Hot Springs are human encroachment, burning of marshes, and overgrazing. Pumping of ground water may be responsible for drying of some spring habitats. Remaining populations are highly localized and consist of small numbers of animals (Bleich 1980).

#### Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1962 amendments) set forth the procedures for adding species to the Federal lists. The Secretary of the

Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors, and their application to the Amargosa vole, are as follows.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In the arid Amargosa Desert most development activities occur in areas near permanent water sources. Thus the marsh habitat of the Amargosa vole has been considerably modified by human encroachment. The spring at Shoshone has been diverted and channelized to allow for construction of a high school swimming pool. The development of springs in the Tecopa Hot Springs area for mineral baths and the spread of mobile home courts have greatly modified or eliminated marsh habitat. Such modification of springs and marshes in the Tecopa Hot Springs area has already caused the extinction of the Tecopa pupfish, a small fish endemic to the region (see *Federal Register* of January 15, 1982 (47 FR 2317-2319)).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a problem.

C. *Disease or predation.* Not known to be a problem.

D. *The inadequacy of existing regulatory mechanisms.* The California State Fish and Game Commission lists the Amargosa vole as endangered and, therefore, regulations are in effect that prohibit taking. The main problem of the vole, however, is not direct taking, but loss of habitat.

E. *Other natural or manmade factors affecting its continued existence.* Competition from introduced species may have been a contributing factor in the decline of the Amargosa vole at Shoshone. The house mouse (*Mus musculus*) was reported by Bleich (1980) as very common in marsh habitats around Shoshone.

#### Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires the Secretary to designate the "Critical Habitat" of a species, concurrent with listing, "to the maximum extent prudent and determinable." The Act defines Critical Habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside

the geographical area occupied by the species at the time it is listed in accordance with the provision of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The proposed Critical Habitat for the Amargosa vole falls within an overall zone of 5,960 acres in southeastern Inyo County, California. Within this zone, the Critical Habitat consists of marshes and associated land and water along the Amargosa River, from just north of Tecopa Hot Springs to the Amargosa Canyon, just south of Tecopa.

In considering designation of Critical Habitat, 50 CFR 424.12(b) requires focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species involved. With respect to the Amargosa vole, the areas proposed as Critical Habitat satisfy all known criteria for the ecological, behavioral, and physiological requirements of the species. The marsh vegetation (primarily bulrush) provides sufficient cover for escape from predators and also serves as a food source. Small populations of the Amargosa vole are still able to survive and reproduce in the remaining suitable marsh habitat around Tecopa and Tecopa Hot Springs. These areas may not, however, include the entire habitat of the Amargosa vole, and modifications to the Critical Habitat designation may be proposed in the future.

Subsection 4(b)(8) of the Act requires that, to the maximum extent practicable, any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such designation. In the case of the Amargosa vole, such activities include burning or otherwise removing marsh vegetation, overgrazing of marsh or adjacent vegetation, pumping of ground water supplies, diverting or channelizing springs or the Amargosa River, off-road vehicle use in or adjacent to marsh areas, use of herbicides or rodenticides, and introduction of exotic plant or animal species.

Subsection 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. Therefore, an impact analysis will be prepared prior to the time of final rule and will be used as the basis of a decision on whether or not to exclude any area from Critical Habitat for the Amargosa vole. The Service is notifying Federal agencies

that may have jurisdiction over the land and water under consideration in this proposal. These agencies and other interested parties are requested to submit information on economic or other impacts of the proposed measure. No activities involving Federal agencies are presently known that may have an impact on the habitat of the Amargosa vole.

It should be emphasized that Critical Habitat designation does not necessarily affect Federal activities. If appropriate, the impacts will be addressed during consultation with the Service as required by Section 7 of the Endangered Species Act of 1973, as amended.

#### Available Conservation Measures

Endangered species regulations already published in Title 50 Section 17.21 of the U.S. Code of Federal Regulations set forth a series of general prohibitions and exceptions that apply to all Endangered wildlife species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any Amargosa vole in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered or Threatened. This proposed rule requires Federal agencies to satisfy their statutory obligations with respect to the Amargosa vole. Agencies will now be required, in accordance with Section 7(a)(4), to confer with the Service on any

action that is likely to jeopardize this species or result in the destruction or adverse modification of its Critical Habitat. If the Amargosa vole is actually added to the List of Endangered and Threatened Wildlife, Section 7 would require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of this species or result in the destruction or adverse modification of its Critical Habitat.

The proposed rule would also bring Sections 5 and 6 of the Endangered Species Act into effect with respect to the Amargosa vole. Section 5 authorizes the acquisition of lands for the purpose of conserving Endangered and Threatened species. Pursuant to Section 6, the Fish and Wildlife Service would be able to grant funds (should they become available) to the State of California for management actions aiding the protection and recovery of the vole.

Listing the Amargosa vole as Endangered would allow for development of a recovery plan for this mammal. Such a plan would draw together the State and Federal agencies having responsibility for conservation of the vole. The plan would establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and estimate the cost of the various tasks necessary to accomplish them. It would assign appropriate functions to each agency and a time frame within which to complete them.

The Service also will now review the Amargosa vole to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered for other appropriate international agreements.

#### National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Portland Regional Office (see **ADDRESSES** section above) and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action

that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500-1508).

#### Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

- (1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the Amargosa vole;
- (2) The location of and the reasons why any habitat of this mammal should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;
- (3) Additional information concerning the range and distribution of this mammal;
- (4) Current or planned activities that may adversely modify the area being considered for designation as Critical Habitat; and
- (5) The foreseeable economic and other impacts of the Critical Habitat designation of Federal activities, private individuals, etc.

Final promulgation of the regulations on the Amargosa vole will take into consideration the comments and any additional information received by the Service, and such communications may lead to final regulations that differ from the proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing to the Regional Director (See **ADDRESSES** section above).

#### Author

The primary author of this proposal is Dr. Jack E. Williams, Endangered Species Office, U.S. Fish and Wildlife Service, 1230 "N" Street, 14th Floor, Sacramento, California 95814 (916/484-4664 or FTS 448-2791).

## References

- Bailey, V. 1900. Revision of American voles of the genus *Microtus*. N. Amer. Fauna 17:1-88.
- Bleich, V. C. 1979. *Microtus californicus scirpensis* not extinct. J. Mamm. 60:851-852.
- Bleich, V. C. 1980. Amargosa vole study. Final report to California Dept. Fish and Game, W-54-R-10, 8 pp.
- California Department of Fish and Game. 1980. At the Crossroads 1980—a report on California's endangered and rare fish and wildlife. 147 pp.
- Gould, G. I., and V. C. Bleich. 1977. Amargosa vole study. Report to California Dept. Fish and Game, W-54-R-9, 4 pp.
- Hall, E. R. 1981. The mammals of North America. John Wiley and Sons, New York, 2 vols.
- Kellogg, R. 1918. A revision of the *Microtus californicus* group of meadow mice. Univ. California Publ. Zool. 21:1-42.

## List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife.  
Fish. Marine mammals, Plants  
(agriculture).

## Proposed Regulations Promulgation

## PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-832, 92 Stat. 3751; Pub. L. 98-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife, under Mammals:

## § 17.11 Endangered and threatened wildlife.

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Vole, Amargosa	<i>Microtus californicus scirpensis</i>	U.S.A. (CA)	Entire	E		17.95(a)	NA

3. It is further proposed that § 17.95(a), Mammals, be amended by adding the Critical Habitat of the Amargosa vole after that of the Morrois Bay Kangaroo rat as follows:

## § 17.95 Critical habitat—fish and wildlife.

(a) \* \* \*

## Amargosa vole

(*Microtus californicus scirpensis*)

California. Marshes and associated land and water in the following areas of Inyo County (San Bernardino Meridian): T. 20 N., R 7 E., Secs. 4, 5, 9, W½ sec. 10, SW¼SW¼ sec. 15, E½ sec. 16, NW¼

sec. 22; T. 21 N., R 7 E., secs. 20, 28, 29, 32, 33.

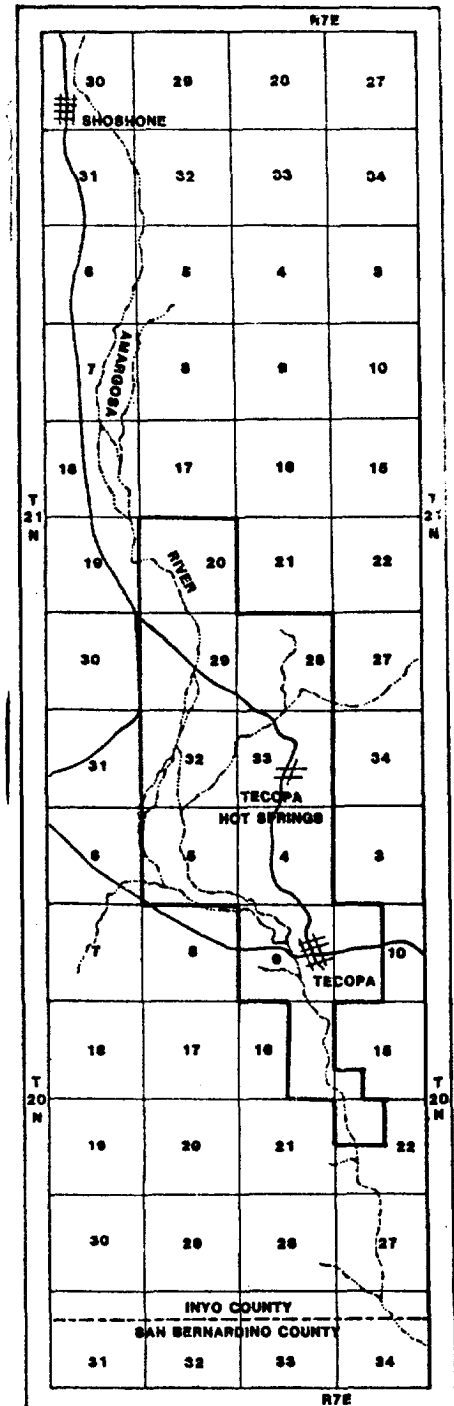
Within these areas, the major constituent elements that are known to require special management considerations or protection are marsh vegetation (primarily bulrushes of the genus *Scirpus*), springs, and some open water along the Amargosa River, which provide escape cover and an adequate food supply.

\* \* \* \* \*

Dated: July 25, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.



[FR Doc. 83-23376 Filed 8-28-83; 8:45 am]

BILLING CODE 4310-55-M